



Kansas Department of Health and Environment

## Long Term Care Program

# FACT SHEET

Volume 24, Number 1

[www.kdhe.state.ks.us/bhfr](http://www.kdhe.state.ks.us/bhfr)

January 2003

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Please route this **FACT SHEET** to nursing staff and other interested parties in your facility. This publication may be copied or accessed through the internet address above.

### E mail Delivery of the FACT SHEET

This is the first issue of the FACT SHEET delivered using e mail. Several months ago, staff contacted nursing facilities requesting e mail addresses. The majority of nursing facilities, and nursing facilities for mental health provided the bureau with their addresses. It is very important that when e mail addresses change that the bureau be contacted. Caryl Gill will be maintaining the distribution list. Caryl can be contacted at [cgill@kdhe.state.ks.us](mailto:cgill@kdhe.state.ks.us).

Those facilities without e mail capability will continue to receive the FACT SHEET by mail. It is hoped that eventually all nursing facilities will provide the bureau with an e mail address. Using e mail for distribution of the FACT SHEET will result in cost savings for KDHE. Receiving the FACT SHEET electronically allows facilities to save the document to a hard drive and allow retrieval at a later date. Distribution of the FACT SHEET to all department heads and others in the facility is always encouraged. Intermediate Care Facilities for the Mentally Retarded will be contacted in the near future for their e mail addresses.

### Annual and Semiannual reports


The electronic version of the FACT SHEET contains links to semiannual and annual report forms and directions. These items are posted on the bureau website. The forms are in Adobe Acrobat format. Facility staff will be able to complete the forms using their computer. Calculations requested will be performed automatically. After completing the forms, they can be printed for submission. **Administrators must review the data for accuracy before signing the form.** The form can then be faxed or mailed to the bureau.

The Fact Sheet is published by the  
Kansas Department of Health and  
Environment.

Bill Graves, Governor  
Clyde Graeber, Secretary

Bureau of Health Facilities  
1000 SW Jackson, Suite 330  
Curtis State Office Building

The bureau's FAX number is 785-296-1266. It is hoped these changes will make the submission process easier.

Directions for completing the form using the computer can be accessed by clicking on the question mark icon  on the web version of the form. Additional instructions can be found on the home pages for the [semi-annual](#) and [annual](#) reports. Information regarding downloading the current version of Adobe Reader software and downloading pdf files can be found [here](#). Facilities using the electronic form must complete the facility name and address section at the top of each form. The reports must be returned to the bureau by January 10, 2003. Sandra Dickison is the contact person for questions related to completion of the reports. Sandra can be reach at [sdickison@kdhe.state.ks.us](mailto:sdickison@kdhe.state.ks.us) or at 785-296-1245.

Facilities that have nursing facility units and residential health care or assisted living units can share staff. Staff time for the semi annual reports must be recorded on the two separate reports according to the amount of time staff spend providing care in each unit. For instance, a medication aide may administer medications in the residential health unit two times during a shift. The same medication aide also administers medications in the nursing facility unit. The medication aide spends about an hour a day administering medications in the residential care unit. Record 1 hour in the residential care report and 7 hours in the nursing facility report.

### **Address Changes for Involuntary Discharge Notices**

The Office of the Long Term Care Ombudsman will be moving. All facilities are required to provide the address of the Long Term Care Ombudsman in an involuntary discharge notice.

After January 6, 2003 the address will be:

Office of the State Long-Term Care Ombudsman  
Landon State Office Building  
900 SW Jackson  
Room 1041  
Topeka, KS 66612-1220

The office for administrative hearings will also be moving on January 6. Those persons residing in a Medicaid certified nursing facility have the right to appeal an involuntary discharge through the administrative hearing process. Please change the address for this office in your involuntary discharge notice.

Kansas Department of Administration  
Office of Administrative Hearings  
1020 S. Kansas Ave.  
Topeka, KS 66612-1311

KAR 28-39-148(c) contains the requirements for an involuntary discharge in all licensed adult care homes. The federal requirements for the written discharge notice are found at 42 CFR 483.12(a)(6). It is the responsibility of the facility to ensure that each involuntary discharge notice meets the requirements found in the above regulations.

### **Restorative Nursing**

Data derived from the Minimum Data Sets (MDS) submitted by certified skilled nursing and nursing facilities in Kansas indicate that very few residents receive rehabilitative/restorative nursing services. Out of 24,192 resident assessments submitted in the second quarter of 2002, 546 residents received rehabilitative/restorative nursing care. This is 2.3% of the residents in the sample. When compared to other states, Kansas nursing facilities are ranked

at or near the bottom for providing these essential services. The question needs to be asked, why does the MDS data indicate that residents in Kansas nursing facilities receive very little restorative nursing care? There are two possible reasons. Staff do not code the MDS correctly to reflect the care and services provided. Or Kansas nursing facilities are failing to meet federal and state requirements to maintain and/or improve the physical functioning of residents, if clinically possible?

Rehabilitative/restorative nursing should be an integral part of the care plan for most residents. Research has shown that improvement in physical functioning has an added benefit in decreasing depression and improving cognition in persons with dementia. Muscle strengthening programs can improve balance and as a result decrease injuries from falls.

For over twenty five years selected nurse aides have received training in restorative techniques. Often this additional training was offered by physical therapists and occupational therapists. To meet the needs of most residents, all nurse aides should be educated and performing restorative nursing techniques. The restorative nursing plan must be developed and supervised by a licensed nurse. Specific requirements for restorative nursing can be found on pages 3-153 through 3-155 of the MDS 2.0 manual. *CMS released a revised version of the MDS 2.0 manual on December 26, 2002. Information about restorative nursing can be found on pages 3-191 through 3-197.* Staff can download the revised manual from <http://cms.gov/medicaid/mds20/whatsnew.asp> This is a very large file and needs to be downloaded in sections.

#### **42CFR 483.40 Physician Services Amended**

The Centers for Medicare and Medicaid Services (CMS) amended the regulations for long-term care facilities in October. The amended regulation was published in the Wednesday, October 2, 2002 issue of the [Federal Register](#). The language places in regulation the ability of long-term care facilities to include administration of influenza and pneumococcal vaccines in standing orders. A regulation interpretation on standing orders has been in place in Kansas since 1993. To clarify this policy, the Kansas regulation interpretation has been amended to reflect the new federal rule. A copy of the [revised interpretation](#) is included with this issue of the FACT SHEET. The revised language appears in italics. Protecting residents by administering the pneumococcal and flu vaccine has been encouraged by the Department for a number of years.

Please remove the interpretation dated March 14, 1997 and replace with the enclosed revised interpretation. This interpretation change affects all adult care homes and long term care units in hospitals.

#### **Administration of Physician Sample Drugs**

The article about physician samples and administration by staff employed by long term care facilities published in the July FACT SHEET II resulted in a number of letters and phone calls to the bureau. In response to concerns from physicians, families and facilities, a task force has been formed to restudy the issue. The task force has had one meeting and will be meeting again in January. Members of the task force represent the Boards of Nursing, Pharmacy, and Healing Arts. A staff person at the regional office in Kansas City with the Food and Drug Administration participated by telephone. The issues are complex and are affected by a number of federal and state statutes and regulations. The intent is to ensure that KDHE's policy is consistent with the law and meets the needs of the public. If it is found that the policy is too limited, the policy will be revised and providers will be notified.

## **Direct Care Staff Performing Laundry and Dietary Functions**

Included with this issue of the FACT SHEET is a [regulation interpretation](#) on direct care staff performing laundry and dietary functions. With the implementation of neighborhoods, clusters and person centered care, the issue of direct care staff performing laundry and dietary functions presents new implications for this regulation. The primary function of direct care staff is to provide care and services directly to the resident. Being able to assist a resident with their laundry or to prepare a snack or part of a meal allows activities that are similar to those performed in one's own home. As long as these activities do not limit the quality of the nursing care provided to residents, they will be allowed. Misuse of this interpretation will result in deficiencies related to not having sufficient staff to meet the needs of residents.

[Regulations](#) and [Regulation Interpretation Manual](#) Available on KDHE website.

The regulations for adult care homes are posted on the bureau's website. The regulations are in html format and can be easily downloaded. Each regulation is posted in a separate file for ease in downloading. Please note that there are regulations common to adult care homes. They can be found in the file for nursing facilities. The common regulations are KAR 28-39-144 through KAR 28-39-148.

It was called to our attention that a previous regulation interpretation for tuberculin testing was printed in the Regulation Interpretation Manual issued in February of 2001. The correct regulation interpretation is now available on the website. The page numbers are 44 and 45. The correct interpretation was revised March 17, 1997 and February 15, 2002. We are sorry for this error.

## **CMS Announcement: Posting of Nursing Staff in Skilled Nursing and Nursing Facilities**

On October 10, 2002, the Centers for Medicare and Medicaid Services announced that skilled nursing facilities and nursing facilities are required to post daily the number of licensed and unlicensed nursing staff directly responsible for resident care in the facility. This requirement is part of Section 941 of the Medicare, Medicaid and SCHIP *Benefits Improvement and Protection Act of 2000 (BIPA)*. Section 941 of BIPA also requires the Secretary of Health and Human Services to specify the "uniform manner" in which the information should be displayed.

State survey agencies have been informed by CMS that "the information must include the actual number of licensed and unlicensed nursing staff directly responsible for the care of residents for that particular day and shift". These staff positions would include registered nurses, licensed practical nurses and nurse aides. The information must be prominently displayed where staff, residents and the public can view it. Until the "uniform manner" of displaying the information is developed, state surveyors have been directed to simply verify the information is being posted. It is not required that any "audit" activity be undertaken by surveyors. This policy is effective January 1, 2003.

## **Zero Deficiencies and Exemplary Care Awards**

The following facilities were recognized by Secretary Graeber for achieving a zero deficiency resurvey. The bureau congratulates each of the following facilities.

Cumbernauld Village  
Cheney Golden Age Home  
Meadowlark Hills

Winfield  
Cheney  
Manhattan

(continued on next page)

Medicalodge Post Acute	Kansas City
Mennonite Friendship Manor	South Hutchinson
Minneola Nursing Home	Minneola
Parkside Homes	Hillsboro
Prairie Manor Good Samaritan Center	Sharon Springs
Prescott Country View	Prescott
Sandstone Heights	Little River
Schowalter Villa	Hesston

In the October FACT SHEET, Logan County Manor was recognized for a zero deficiency award. This facility is located in Oakley not in Logan. The editor apologizes for this error.

Secretary Graeber recognized two nursing facilities for exemplary care. Facilities are nominated for this award for care and services that significantly benefit the life and care of the residents living in the facility.

Cheney Golden Age Home was recognized for developing and implementing systems that assisted residents to perform activities of daily living at their highest practicable level. They were also recognized for a physical environment that supported residents. The surveyors indicated that this facility was deficiency free for the second year in a row. There is stability in the staff that resulted in holistic care. Residents receive respect from all staff.

A resident focused program has been developed and implemented at the Wichita Presbyterian Manor. Outstanding areas of programing included enhancing resident skills in activities of daily living and enhancing the nutritional status of residents.

## CREDENTIALING UPDATE

### Criminal Record Check Program

At the end of September, the Kansas Bureau of Investigation made significant changes to the automation system for the criminal history repository database. In order to implement these changes to their system, KBI had to stop processing criminal record check requests received from KDHE (as well as other entities and state agencies) for a little over one month. This naturally resulted in a significant backlog of requests. Currently, there are approximately 1,400 criminal record check requests awaiting completion. The Criminal Record Check Program staff expect to complete the processing of these requests by December 31, 2002

## HOC Advisory Group

During the past few months, Health Occupations Credentialing (HOC), with input from the Advisory Group, has been developing a plan to shift scheduling of candidates to take the state nurse aide and home health aide certification tests from HOC to the test sites. When the shift is made, the community colleges and vocational schools will handle the scheduling for candidates who will be testing at their sites. This will allow test providers the flexibility to schedule additional tests, as necessary, as well as the regular monthly test date. HOC will continue to coordinate testing for candidates rescheduling to test and for candidates challenging the tests based on allied health education or reciprocity. The **transition for test scheduling** will be done on a limited, pilot basis in the spring of 2003.

HOC is once again considering **recertification for nurse aides** and is looking in particular at how recertification might fulfill the federal requirement for employment verification. The employment verification process is time and resource intensive for both HOC and the industry. Requiring nurse aides to recertify, with one of several options for recertification based on employment verification, is being explored as a means of keeping nurse aides active on the nurse aide registry. Comments regarding this issue are welcome and may be directed to Marla Rhoden at HOC's mailing address, by telephone at 785-296-1281, or e-mail [mrhoden@kdhe.state.ks.us](mailto:mrhoden@kdhe.state.ks.us).

### **Nurse Aide Reimbursement for Training**

At a Health Occupations Credentialing (HOC) presentation at a recent KAHSA Nurse Leader's Conference, many questions were asked about facility reimbursement of nurse aide training costs. If you have questions about the process, please send your questions to Martha Ryan by phone (785-296-0058) or fax (785-296-3075) or e mail ([mryan@kdhe.state.ks.us](mailto:mryan@kdhe.state.ks.us)). Bill McDaniel, Department on Aging, has agreed to answer the questions. HOC will publish the questions and answers in the next Update.

### **Status of the Proposed Medication Aide Program**

The new proposed curriculum is finished. The new tests are being field tested. A big thank you goes to the following schools that have agreed to participate in the field testing for the proposed medication aide tests: Butler County Community College, Flint Hills Technical College, Kansas City Area Technical School, Kaw Area Technical School, Neosho County Community College, Northeast Kansas Technical College and Wichita Area Technical School. HOC appreciates the assistance! Proposed regulations are currently under review by the Department of Administration. The regulations must also be reviewed by the attorney general's office, and when approved, will be published in the Kansas Register. A public hearing will be held 60 days after the proposed regulations are published in the Register. During the 60 days after publication of the regulations before the public hearing, the proposed curriculum will be available for review. Copies may be ordered for a small fee from the Kansas Curriculum Center at Washburn University. The instructor manual may be requested from HOC.

Many individuals participated in committees to develop the proposed curriculum, tests and program changes. HOC thanks them for their superb effort! They and the organizations that nominated them to serve are listed: Deb Bader, Kansas Health Care Association (KHCA); Caprice Becker, Manhattan Area Technical School; Joyce Bedsworth, Kansas Association of Homes and Services for the Aging (KAHSA); Kathy Bode, Flint Hills Technical College; Charlotte Campbell, KAW Area Technical School; Bea Carney, Johnson County Community College; Kathy Carter, Garden City Community College; Diana Finan, KHCA; Mary Gedrose, Kansas Advocates for Better Care (KABC); Denise German, KABC; Shawn Hase, ALFA-KAN; Carly Haynes, Pharmacy Board; Kathleen Lee, KHCA; Carolyn Middendorf, KABC and Kansas State Nurses Association; Robbie Pennington, KAHSA; Linda Pfeiffer, Johnson County Technical Education Center; Kristine Pheifer, Wichita Area Technical School; Ben Rigdon, KAHSA; Linda Runge, Kansas Adult Care Executives; Anne Schmidt, Johnson County Community College; and Terri Stewart, Barton County Community College.

### **Public Hearing on Proposed Regulation Revisions**

A public hearing was held December 13, 2002 at 9:30 a.m. for the proposed revisions to the adult care home administrator regulations. The Board of Adult Care Home Administrators held their quarterly board meeting December 13, 2002. A roll call vote was taken regarding the proposed revisions to the regulations. The revisions were adopted unanimously and will become effective 15 days after publication in the Kansas Register. It is anticipated that the revised regulations will be published in the Kansas Register early in January 2003.



## Speech-Language Pathology and Audiology License Renewals

Renewal notices were mailed in August 2002 to the 817 licensees due for renewal by October 31, 2002. Of those due for renewal, 659 speech-language pathologists and 65 audiologists have renewed their licenses. A total of 29 speech-language pathologists and 3 audiologists returned notices indicating they were not renewing. After November 30, 2002, licenses not yet renewed are considered lapsed and would have to be reinstated. Random continuing education reviews were conducted for 55 of the renewals received. All 55 of the licensees responded. The reviews were completed and all licenses renewed.

## Resources for Better Care

### *Heart Work*

At the Culture Change Joint Trainings, the video *Heart Work* was discussed. Home health aides and nurse aides describe their life and work in drama and song. They celebrate who they are and the work they do with frail elders and the disabled. Their stories are powerful and can be an inspiration to staff. There is a discussion guide that accompanies the video. The video would be a good resource for a resident/family council program.

The video was purchased by the Kansas Association of Homes and Services for the Aging. The department is grateful for the donation of this excellent educational resource. The video can be requested from the Kansas Public Health and Environment Information Library located at Kansas State. The catalog and order forms can be found at the following internet address: [kdhe.state.ks.us/library/listing.html#av](http://kdhe.state.ks.us/library/listing.html#av). The accession number the *Heart Work* video is DA6600. The only cost is return postage. The video is also available for purchase from the National Clearing House on the Direct Care Workforce. Their website is [www.directcareclearinghouse.org](http://www.directcareclearinghouse.org).

### *Latex Allergy*

Latex allergy is a growing concern, especially among health care workers. Estimates indicate 10-22 percent of health care workers are allergic to latex. Some researchers attribute the increase in the reported cases of latex allergy to more widespread use of latex gloves. The powdered corn starch that is used with some brands can also send latex particles airborne. Latex allergy may become more severe with each exposure. A Latex Allergy Health Education Facts sheet is available on the KDHE website. <http://www.kdhe.state.ks.us/pdf/hef/bg2253.pdf>

**The National Institute for Occupational Safety and Health (NIOSH) requests assistance in preventing allergic reactions to natural rubber latex among workers.** NIOSH recommends the use of *nonlatex* gloves for activities that are not likely to involve contact with infectious materials (food preparation, routine housekeeping, maintenance, etc.). So-called hypoallergenic latex gloves do not reduce the risk of latex allergy. However, they may reduce reactions to chemical additives in the latex (allergic contact dermatitis). Detailed information is available at <http://www.cdc.gov/niosh/latexalt.html>

In food preparation and service there are several alternatives to using gloves including utensils such as tongs, spoons, scoops, deli tissue and paper napkins. The use of gloves often creates situations where staff touch potentially contaminated food or surfaces and do not change gloves or use appropriate alternatives. Good hand washing is still the basis for infection control and food safety in food preparation and service.

## Enforcement Data

Due to technical problems, the enforcement data for the third quarter of 2002 was not available for publication. This information will be published in the next FACT SHEET.

**LONG TERM CARE  
REGULATION INTERPRETATION  
BUREAU OF HEALTH FACILITIES**

KAR 28-39-154(a)(5)

**SUBJECT:** Direct Care Staff Performing Laundry and Dietary Functions

**DATE:** December 20, 2002

**NUMBER:** 02-1

**INTERPRETATION:**

Direct care staff may perform tasks considered to be dietary and/or laundry functions as long as the time spent performing these tasks is limited and does not adversely affect the care and services needed by residents. Staff must be able to perform these tasks on the nursing unit.

**DISCUSSION:**

The intent of this regulation is to ensure that direct care nursing staff did not leave the nursing unit to work in the laundry or dietary sections of the building. This practice could have an adverse effect on resident care. Less staff is available to meet the needs of residents. This regulation was not intended to prevent direct care nursing staff from performing duties such as assisting with food preparation and using laundry equipment located on the nursing unit. The time spent in these activities must be limited. It is the responsibility of the facility to ensure that there is adequate staffing to meet the needs of residents.

When reporting staffing hours in the Adult Care Home Semi-annual report, facilities do not need to deduct a percentage of time direct care staff spend doing laundry and dietary tasks. If these tasks are performed on the nursing unit, the staff person is available to residents.



**LONG TERM CARE  
REGULATION INTERPRETATION  
BUREAU OF HEALTH FACILITIES**

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K.A.R. 28-39-155 (a)  
K.A.R. 28-39-436 (c)  
K.A.R. 28-39-247 (c)  
K.A.R. 28-39-282 (c)  
42 C.F.R. 483.40 (a)(b)  
42 C.F.R. 483.460

**SUBJECT: Standing Orders****DATE:** November 1, 1993**REVISED:** March 14, 1997, **Revised February 15, 2002****NUMBER:** 93-18

**INTERPRETATION:** As used in this interpretation, a standing order is one formulated and signed by a physician, containing specific instructions for nursing actions for the conduct of resident care and which requires nursing judgement to implement. Standing orders are to be used in stipulated clinical situations when a physician is not readily available and the physician has determined that a licensed nurse may use clinical judgement without direct consultation prior to the nursing intervention.

**DISCUSSION:** Standing orders are acceptable for specified medications and treatments. The use of physical restraints may not be included on standing orders. The following shall be included in facility policy and procedures:

1. Standing orders are issued only by the resident's attending physician and are signed and dated by that physician.
2. Standing orders are reviewed at the same intervals as the physician plan of care.
3. A licensed nurse is responsible for implementing standing orders.
4. Choices of similar treatments or medications shall be kept to a minimum.
5. Standing orders are to be written in accordance with accepted professional standards and are specific, understandable and complete.
6. Medications included in standing orders may include over the counter drugs and a limited number of prescription drugs. Schedule II drugs and psychopharmacologic drugs are not appropriate selections for standing orders. *It is appropriate to include influenza and pneumococcal vaccines in standing orders as long as a licensed nurse has performed an assessment to identify possible contraindications for each resident.*
7. A limitation of the number of times a medication can be used in close succession without notifying the physician must be stated.
8. A copy of the signed and dated standing orders shall be placed in the resident's clinical record.

Standing orders are an accepted interdependent intervention providing for continuous physician direction in the physicians absence. They are commonly used in settings in which the physician is not readily available and , thus provide the licensed nurse certain legal protection to intervene appropriately in the resident's best interest.